

Internal Revenue Service

Department of the Treasury

District
Director

Date:

JAN 08 1988

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Gentlemen:

We have considered your application for exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The information provided shows that you were formed as a result of a Master Declaration made by [REDACTED], developer of the "[REDACTED]" condominium community on [REDACTED]. The information also shows that the trust was transferred to [REDACTED] on [REDACTED].

The organization was formed for the following purposes for the benefit of the members of the trust:

a) Operation of the community areas - To operate and maintain or provide for the operation and maintenance of all community areas and to keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order and repair.

b) Payment of Taxes - To pay all real estate and personal property taxes and assessments levied upon any property owned by the Trust. Such taxes and assessments may be contested or comprised by the Trust. Any taxes or assessments levied on any condominium shall be the responsibility of the owner of such condominium.

c) Public Service - To contract for or provide (to the extent adequate services are not provided by a public authority) such police and fire protection, refuse disposal, and other services facilities and maintenance of a public or quasi-public nature as may be desirable for the effectuation or perpetuation of the purposes of the [REDACTED] Restrictions. In connection with the providing of such facilities and services, the Trust may contract with or delegate its duties to any public authority, governmental body or special district.

d) Insurance - To obtain and maintain in force such insurance as the trust shall deem necessary to protect the [REDACTED] from loss by reason of fire or other casualty and from liability for personal injury and property damage of the community areas and buildings and to obtain and maintain such fidelity and other bonds as the Trustees shall deem appropriate to protect the [REDACTED]. In addition, to maintain as a common expense such insurance as the Trustees shall deem necessary to protect the Condominium Owners from loss by reason of fire or other casualty and from liability for personal injury and physical damage to cover the buildings and improvements of the Condominium Owners.

Per Section 3, item (i) of the [REDACTED] Restractions, the maintenance, repair and improvement of the exterior portions of the residential areas shall be performed by the Trust. The costs of such maintenance, repair and improvements shall be a common expense and shall be allocated and assessed to each condominium owner in the community of [REDACTED] in the same manner as any other common expense.

Per Part III, item 3 of Form 1024, the organization's activities are as follows:

(A) Maintain exterior of building units, septic tank, drainage system, swimming pool and tennis court. Maintain and repair roadway system as required for safe and necessary travel in all seasons of the year. Provide for the upkeep of grounds and landscaping.

(B) Pay cost for fire insurance on building units, town taxes on swimming pool, tennis court and open lot.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of Civic Leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic benefit and social improvements.

Rev. Rul. 74-17, 1974-1 C.B. 130 provides that an organization formed by the unit owners of a condominium development and which is operated to provide for the management, maintenance and care of the common areas of the development is not entitled to exemption under section 501(c)(4) of the Code.

Rev. Rul. 69-280, 1969-1 C.B. 280 holds that an organization which provides for the maintenance of exterior walls and roofs of members' units in a housing development is operated primarily for the private benefit of its members, and is therefore not qualified for exemption under section 501(c)(4).

In the instant case, the membership organization is essentially a mutual, self-interest type of organization. Its income is used to provide direct economic benefits to members; and benefit to the larger community is minor, incidental, or non-existent.

Where the benefit from an organization is limited to that organization's members "except for some minor or incidental benefit to the community as a whole", the organization is not operated exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Code.

Accordingly, since the benefits from the subject organization are for its members rather than for the community as a whole, the organization does not qualify for exemption from Federal income tax under Section 501(c)(4) of the Code.

It should also be noted that the organization does not qualify for exemption under any other related paragraph of section 501(c).

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal Income Tax returns on Form 1120.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

District Director

Enclosure: Pub. 892